

Chapter 116

Initiative and Referendum

Section

- 116.010. Definitions
- 116.020. Application of laws.
- 116.025. Attorney general sent fair ballot language, when—statement posted at polling place.
- 116.030. Referendum petition, form—clerical and technical errors to be disregarded, penalties for false signature.
- 116.040. Initiative petition for law or constitutional amendment, form—clerical and technical errors to be disregarded, penalties for false signature.
- 116.050. Initiative and referendum petitions, requirements.
- 116.060. Initiative and referendum petitions, who may sign—residents of one county only on a designated page.
- 116.070. Petitioner may sign by mark, procedure.
- 116.080. Qualifications of circulator—affidavit, notarization, penalty.
- 116.090. Signing petition illegally, penalty.
- 116.100. Filing of petition, procedure.
- 116.110. Signature may be withdrawn, when, how, effect, penalty.
- 116.120. Secretary of state to determine sufficiency of form and compliance—invalid signatures not counted—signatures may be verified by random sampling, procedure and requirements.
- 116.130. Election authorities may be requested to verify signatures either by random sampling or checking signatures, when, how.
- 116.140. Secretary of state's authority not to count forged or fraudulent signatures.
- 116.150. Secretary of state to issue certificate of sufficiency of petition, when—if insufficient, certificate to state reasons.
- 116.155. Official summaries and fiscal notes may be included in ballot measures, summary to be official ballot title if included.
- 116.160. Summary statement to be provided by the secretary of state if summary not provided by general assembly—content.
- 116.170. Fiscal note and fiscal note summary to be provided by state auditor if not provided by general assembly.
- 116.175. Fiscal impact of proposed measure—fiscal note, fiscal note summary, requirements—return of fiscal note for revision, when.

Section

- 116.180. Copies of ballot title, fiscal note and fiscal note summary to designated persons, when—ballot title to be affixed to petition, when.
- 116.185. Identical ballot titles may be changed, how.
- 116.190. Ballot title may be challenged, procedure—who are parties defendant—changes may be made by court—appeal to supreme court, when.
- 116.195. Costs of court-ordered ballot title change to be paid by the state.
- 116.200. Secretary of state's decision as to sufficiency of petition may be reversed, procedure—appeal.
- 116.210. Numbering of proposed constitutional amendments.
- 116.220. Labeling of initiative and referendum measures.
- 116.230. Sample ballots to be prepared, form.
- 116.240. Certification to election authorities of notice to be published—contents.
- 116.250. Publication of legal notice.
- 116.260. Newspapers for publication of text of measures to be designated—measures to be published, how.
- 116.270. Publications fund created—payments from fund for what, how made.
- 116.280. Paper ballots for statewide measures, form.
- 116.290. Printing of copies of statewide measures—to be posted at polling places—distribution, exception.
- 116.300. Challengers and watchers at polling places, how designated.
- 116.310. Time limited for designating challengers and watchers for polling places and counting locations—effect of failure to designate by prescribed time.
- 116.320. Adoption of measure, vote required—effect of approval of conflicting measures.
- 116.330. Board of canvassers or governor to issue statement.
- 116.332. Petitions for constitutional amendments, statutory initiative or referendum, requirements, procedure.
- 116.334. Petition approval required, procedure to obtain petition title or summary statement—rejection or approval of petition, procedure—circulation of petition prior to approval, effect.
- 116.340. Publication of approved measures.

116.010. Definitions.—As used in this chapter, unless the context otherwise indicates,

(1) **“County”** means any one of the several counties of this state or the city of St. Louis;

(2) **“Election authority”** means a county clerk or board of election commissioners, as established by section 115.015, RSMo;

(3) **“General election”** means the first Tuesday after the first Monday in November in even-numbered years;

(4) **“Official ballot title”** means the summary statement and fiscal note summary prepared for all statewide ballot measures in accordance with the provisions of this chapter which shall be placed on the ballot and, when applicable, shall be the petition title for initiative or referendum petitions;

(5) **“Statewide ballot measure”** means a constitutional amendment submitted by initiative petition, the general assembly or a constitutional convention, a statutory measure submitted by initiative or referendum petition, the question of holding a constitutional convention, and a constitution proposed by a constitutional convention;

(6) **“Voter”** means a person registered to vote in accordance with section 115.151, RSMo.
(L. 1980 S.B. 658, A.L. 1997 S.B. 132)

116.020. Application of laws.—This chapter shall apply to elections on statewide ballot measures. The election procedures contained in chapter 115, RSMo, shall apply to elections on statewide ballot measures, except to the extent that the provisions of chapter 116 directly conflict, in which case chapter 116 shall prevail, and except to the extent that a constitutional convention’s provisions under section 3(c) of article XII of the constitution directly conflict, in which case the convention’s provisions shall prevail.

(L. 1980 S.B. 658)
Effective 1-1-81

116.025. Attorney general sent fair ballot language, when—statement posted at polling place.—The secretary of state within twenty days of receiving a statewide ballot measure shall prepare and transmit to the attorney general fair ballot language statements that fairly and accurately explain what a vote for and what a vote against the measure represent. Each statement shall be posted in each polling place next to the sample ballot. Such fair ballot language statements shall be true and impartial statements of the effect of a vote for and against the measure in language neither intentionally argumentative nor likely to create prejudice for or against the proposed measure. In addition, such fair ballot language shall include a statement as to whether the measure will increase, decrease, or have no impact on taxes, including the specific category of tax. Such fair ballot language statements may be challenged in accordance with section 116.190. The attorney general shall within ten days approve the legal content and form of the proposed statements.

(L. 2003 H.B. 511)

116.030. Referendum petition, form—clerical and technical errors to be disregarded, penalties for false signature.—The following shall be substantially the form of each page of referendum petitions on any law passed by the general assembly of the state of Missouri:

County

Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

PETITION FOR REFERENDUM

To the Honorable, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and County (or city of St. Louis), respectfully order that the Senate (or House) Bill No. entitled (title of law), passed by the general assembly of the state of Missouri, at the regular (or special) session of the general assembly, shall be referred to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the day of, unless the general assembly shall designate another date, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR’S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF

I,, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
(Here follow numbered lines for signers)					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and County.

.....
Signature of Affiant
(Person obtaining signatures)

.....
Address of Affiant

Subscribed and sworn to before me this day of, A.D.

.....
Signature of Notary

.....
Address of Notary

Notary Public (Seal)

My commission expires

If this form is followed substantially and the requirements of section 116.050 are met, it shall be sufficient, disregarding clerical and merely technical errors.

(L. 1980 S.B. 658, A.L. 1986 H.B. 1471, et al., A.L. 1997 S.B. 132, A.L. 1999 H.B. 676)
Effective 6-16-99

116.040. Initiative petition for law or constitutional amendment, form—clerical and technical errors to be disregarded, penalties for false signature.—The following shall be substantially the form of each page of each petition for any law or amendment to the Constitution of the state of Missouri proposed by the initiative:

County
Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to

sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the day of,, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR’S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF

I,, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
(Here follow numbered lines for signers)					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and County.

.....
Signature of Affiant
(Person obtaining
signatures)

.....
Address of Affiant

Subscribed and sworn to before me this day of, A.D.

.....
Signature of Notary
Address of Notary

Notary Public (Seal)

My commission expires

If this form is followed substantially and the requirements of section 116.050 and section 116.080 are met, it shall be sufficient, disregarding clerical and merely technical errors.

(L. 1980 S.B. 658, A.L. 1986 H.B. 1471, et al., A.L. 1997 S.B. 132, A.L. 1999 H.B. 676)
Effective 6-16-99

116.050. Initiative and referendum petitions, requirements.—1. Initiative and referendum petitions filed under the provisions of this chapter shall consist of pages of a uniform size. Each page, excluding the text of the measure, shall be no larger than eight and one-half by fourteen inches. Each page of an initiative petition shall be attached to or shall contain a full and correct text of the proposed measure. Each page of a referendum petition shall be attached to or shall contain a full and correct text of the measure on which the referendum is sought.

2. The full and correct text of all initiative and referendum petition measures shall:

(1) Contain all matter which is to be deleted included in its proper place enclosed in brackets and all new matter shown underlined;

(2) Include all sections of existing law or of the constitution which would be repealed by the measure; and

(3) Otherwise conform to the provisions of article III, section 28 and article III, section 50 of the constitution and those of this chapter.

(L. 1980 S.B. 658, A.L. 1997 S.B. 132)

116.060. Initiative and referendum petitions, who may sign—residents of one county only on a designated page.—Any registered voter of the state of Missouri may sign initiative and referendum petitions. However, each page of an initiative or referendum petition shall contain signatures of voters from only one county. Each petition page filed with the secretary of state shall have the county where the signers are registered designated in the upper right-hand corner of such page. Signatures of voters from counties other than the one designated by the circulator in the upper right-hand corner on a given page shall not be counted as valid.

(L. 1980 S.B. 658, A.L. 1999 H.B. 676)

Effective 6-16-99

116.070. Petitioner may sign by mark, procedure.—When any voter wishes to sign an initiative or referendum petition and is unable to sign his name, the circulator shall print the required information on the petition. The voter shall then make his mark, and the circulator shall attest to it by his signature. For purposes of this chapter, all marks made and attested in accordance with this section shall be considered signatures.

(L. 1980 S.B. 658)

Effective 1-1-81

116.080. Qualifications of circulator—affidavit, notarization, penalty.—1. Each petition circulator shall be at least eighteen years of age and registered with the secretary of state. Signatures collected by any circulator who has not registered with the secretary of state pursuant to this chapter on or before 5:00 p.m. on the final day for filing petitions with the secretary of state shall not be counted.

2. Each petition circulator shall supply the following information to the secretary of state's office:

- (1) Name of petition;
- (2) Name of circulator;
- (3) Residential address, including street number, city, state and zip code;
- (4) Mailing address, if different;
- (5) Have you been or do you expect to be paid for soliciting signatures for this petition?
[] YES [] NO;
- (6) If the answer to subdivision (5) is yes, then identify the payor;
- (7) Signature of circulator.

3. The circulator information required in subsection 2 of this section shall be submitted to the secretary of state's office with the following oath and affirmation:

I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT.

4. Each petition circulator shall subscribe and swear to the proper affidavit on each petition page such circulator submits before a notary public commissioned in Missouri. When notarizing a circulator's signature, a notary public shall sign his or her official signature and affix his or her official seal to the affidavit only if the circulator personally appears before the notary and subscribes and swears to the affidavit in his or her presence.

5. Any circulator who falsely swears to a circulator's affidavit knowing it to be false is guilty of a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both.

(L. 1980 S.B. 658, A.L. 1999 H.B. 676)

Effective 6-16-99

116.090. Signing petition illegally, penalty.—1. Any person who signs any name other than his own to any petition, or who knowingly signs his or her name more than once for the same measure for the same election, or who knows he or she is not at the time of signing or circulating the same a Missouri registered voter and a resident of this state, shall, upon conviction thereof, be guilty of a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both.

2. Any person who knowingly accepts or offers money or anything of value to another person in exchange for a signature on a petition is guilty of a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both.

(L. 1980 S.B. 658, A.L. 1999 H.B. 676)

Effective 6-16-99

116.100. Filing of petition, procedure.—The secretary of state shall not accept any referendum petition submitted later than 5:00 p.m. on the final day for filing referendum petitions. The secretary of state shall not accept any initiative petition submitted later than 5:00 p.m. on the final day for filing initiative petitions. All pages shall be submitted at one time. When an initiative or referendum petition is submitted to the secretary of state, the signature pages shall be in order and numbered sequentially by county, except in counties that include multiple congressional districts, the signatures may be ordered and numbered using an alternate numbering scheme approved in writing by the secretary of state prior to submission of the petition. Any petition that is not submitted in accordance with this section, disregarding clerical and merely technical errors, shall be rejected as insufficient. After verifying the count of signature pages, the secretary of state shall issue a receipt indicating the number of pages presented from each county. When a person submits a petition he or she shall designate to the secretary of state the name and the address of the person to whom any notices shall be sent under sections 116.140 and 116.180.

(L. 1980 S.B. 658, A.L. 1983 S.B. 234, A.L. 1997 S.B. 132, A.L. 1999 H.B. 676)

Effective 6-16-99

116.110. Signature may be withdrawn, when, how, effect, penalty.—Any voter who has signed an initiative or referendum petition may withdraw his or her signature from that petition by submitting to the secretary of state, before the petition is filed with the secretary of state, a sworn statement requesting that his or her signature be withdrawn and affirming the name of the petition signed, the name the voter used when signing the petition, the address of the voter and the county of residence. It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, to knowingly file a false withdrawal statement with the secretary of state.

(L. 1980 S.B. 658, A.L. 1999 H.B. 676)

Effective 6-16-99

116.120. Secretary of state to determine sufficiency of form and compliance —invalid signatures not counted—signatures may be verified by random sampling, procedure and requirements.—1. When an initiative or referendum petition is submitted to the secretary of

state, he or she shall examine the petition to determine whether it complies with the Constitution of Missouri and with this chapter. Signatures on petition pages that have been collected by any person who is not properly registered with the secretary of state as a circulator shall not be counted as valid. Signatures on petition pages that do not have the official ballot title affixed to the page shall not be counted as valid. The secretary of state may verify the signatures on the petition by use of random sampling. The random sample of signatures to be verified shall be drawn in such a manner that every signature properly filed with the secretary of state shall be given an equal opportunity to be included in the sample. The process for establishing the random sample and determining the statistically valid result shall be established by the secretary of state. Such a random sampling shall include an examination of five percent of the signatures.

2. If the random sample verification establishes that the number of valid signatures is less than ninety percent of the number of qualified voters needed to find the petition sufficient in a congressional district, the petition shall be deemed to have failed to qualify in that district. In finding a petition insufficient, the secretary of state does not need to verify all congressional districts on each petition submitted if verification of only one or more districts establishes the petition as insufficient.

3. If the random sample verification establishes that the number of valid signatures total more than one hundred ten percent of the number of qualified voters needed to find the petition sufficient in a congressional district, the petition shall be deemed to qualify in that district.

4. If the random sampling shows the number of valid signatures within a congressional district is within ninety to one hundred ten percent of the number of signatures of qualified voters needed to declare the petition sufficient in that district, the secretary of state shall order the examination and verification of each signature filed.

(L. 1980 S.B. 658, A.L. 1988 S.B. 647, A.L. 1999 H.B. 676)

Effective 6-16-99

116.130. Election authorities may be requested to verify signatures either by random sampling or checking signatures, when, how.—1. The secretary of state may send copies of petition pages to election authorities to verify that the persons whose names are listed as signers to the petition are registered voters. Such verification may either be of each signature or by random sampling as provided in section 116.120, as the secretary shall direct. If copies of the petition pages are sent to an election authority for verification, such copies shall be sent pursuant to the following schedule:

(1) Copies of all pages from not less than one petition shall be received in the office of the election authority not later than two weeks after the petition is filed in the office of secretary of state;

(2) Copies of all pages of a total of three petitions shall be received in the office of the election authority not later than three weeks after the petition is filed in the office of the secretary of state;

(3) If more than three petitions are filed, all copies of petition pages, including those petitions selected for verification by random sample pursuant to section 116.120, shall be received in the office of the election authority not later than the fourth week after the petition is filed in the office of the secretary of state.

Each election authority shall check the signatures against voter registration records in the election authority's jurisdiction, but the election authority shall count as valid only the signatures of persons registered as voters in the county named in the circulator's affidavit. Signatures shall not be counted as valid if they have been struck through or crossed out.

2. If the election authority is requested to verify the petition by random sampling, such verification shall be completed and certified not later than thirty days from the date that the election authority receives the petition from the secretary of state. If the election authority is to verify

each signature, such verification must be completed, certified and delivered to the secretary of state by 5:00 p.m. on the last Tuesday in July prior to the election, or in the event of complete verification of signatures after a failed random sample, full verification shall be completed, certified and delivered to the secretary of state by 5:00 p.m. on the last Tuesday in July or by 5:00 p.m. on the Friday of the fifth week after receipt of the signatures by the local election authority, whichever is later.

3. If the election authority or the secretary of state determines that the congressional district number written after the signature of any voter is not the congressional district of which the voter is a resident, the election authority or the secretary of state shall correct the congressional district number on the petition page. Failure of a voter to give the voter's correct congressional district number shall not by itself be grounds for not counting the voter's signature.

4. The election authority shall return the copies of the petition pages to the secretary of state with annotations regarding any invalid or questionable signatures which the election authority has been asked to check by the secretary of state. The election authority shall verify the number of pages received for that county, and also certify the total number of valid signatures of voters from each congressional district which the election authority has been asked to check by the secretary of state.

5. The secretary of state is authorized to adopt rules to ensure uniform, complete, and accurate checking of petition signatures either by actual count or random sampling. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

6. After a period of three years from the time of submission of the petitions to the secretary of state, the secretary of state, if the secretary determines that retention of such petitions is no longer necessary, may destroy such petitions.

(L. 1980 S.B. 658, A.L. 1988 S.B. 647, A.L. 1995 S.B. 3, A.L. 1997 S.B. 132, A.L. 1999 H.B. 676, A.L. 2003 S.B. 50)

116.140. Secretary of state's authority not to count forged or fraudulent signatures.—

Notwithstanding certifications from election authorities under section 116.130, the secretary of state shall have authority not to count signatures on initiative or referendum petitions which are, in his opinion, forged or fraudulent signatures.

(L. 1980 S.B. 658, A.L. 1988 S.B. 647)

Effective 6-6-88

116.150. Secretary of state to issue certificate of sufficiency of petition, when—if insufficient, certificate to state reasons.—1. After the secretary of state makes a determination on the sufficiency of the petition and if the secretary of state finds it sufficient, the secretary of state shall issue a certificate setting forth that the petition contains a sufficient number of valid signatures to comply with the Constitution of Missouri and with this chapter.

2. The secretary of state shall issue a certificate only for a petition approved pursuant to section 116.332. If the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.

3. The secretary of state shall issue a certificate pursuant to this section not later than 5:00 p.m. on the thirteenth Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification pursuant to subsection 2 of section 116.130, whichever is later.

(L. 1980 S.B. 658, A.L. 1985 H.B. 543, A.L. 1988 S.B. 647, A.L. 1999 H.B. 676)

Effective 6-16-99

116.155. Official summaries and fiscal notes may be included in ballot measures, summary to be official ballot title if included.—1. The general assembly may include the offi-

cial summary statement and a fiscal note summary in any statewide ballot measure that it refers to the voters.

2. The official summary statement approved by the general assembly shall, taken together with the approved fiscal note summary, be the official ballot title and such summary statement shall contain no more than fifty words, excluding articles. The title shall be a true and impartial statement of the purposes of the proposed measure in language neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure.

3. The fiscal note summary approved by the general assembly shall contain no more than fifty words, excluding articles, which shall summarize the fiscal note prepared for the measure in language neither argumentative nor likely to create prejudice for or against the proposed measure.

(L. 1999 H.B. 676)

Effective 6-16-99

116.160. Summary statement to be provided by the secretary of state if summary not provided by general assembly—content.—

1. If the general assembly adopts a joint resolution proposing a constitutional amendment or a bill without a fiscal note summary, which is to be referred to a vote of the people, after receipt of such resolution or bill the secretary of state shall promptly forward the resolution or bill to the state auditor. If the general assembly adopts a joint resolution proposing a constitutional amendment or a bill without an official summary statement, which is to be referred to a vote of the people, within twenty days after receipt of the resolution or bill, the secretary of state shall prepare and transmit to the attorney general a summary statement of the measure as the proposed summary statement. The secretary of state may seek the advice of the legislator who introduced the constitutional amendment or bill and the speaker of the house or the president pro tem of the legislative chamber that originated the measure. The summary statement may be distinct from the legislative title of the proposed constitutional amendment or bill. The attorney general shall within ten days approve the legal content and form of the proposed statement.

2. The official summary statement shall contain no more than fifty words, excluding articles. The title shall be a true and impartial statement of the purposes of the proposed measure in language neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure.

(L. 1980 S.B. 658, A.L. 1983 S.B. 234, A.L. 1985 H.B. 543, A.L. 1997 S.B. 132, A.L. 1999 H.B. 676)

Effective 6-16-99

(1984) A court may not authorize the alteration or redesignation of initiative or referendum petitions in order to correct scrivener's errors. *Payne v. Kirkpatrick* (Mo. App.), 685 S.W.2d 891.

116.170. Fiscal note and fiscal note summary to be provided by state auditor if not provided by general assembly.—

If the general assembly adopts a joint resolution proposing a constitutional amendment or a bill without a fiscal note summary, which is to be referred to a vote of the people, the state auditor shall, within thirty days of delivery to the auditor, prepare and file with the secretary of state a fiscal note and a fiscal note summary for the proposed measure in accordance with the provisions of section 116.175.

(L. 1980 S.B. 658, A.L. 1983 S.B. 234, A.L. 1993 S.B. 350, A.L. 1997 S.B. 132, A.L. 1999 H.B. 676)

Effective 6-16-99

(1994) Words "insufficient and unfair" as used in section and applied to fiscal notes mean to inadequately and with bias, prejudice, deception and/or favoritism state the fiscal consequences of the proposed proposition. Test of fiscal note summary is not whether summary is the best language for describing effect. Burden is on opponents of language for describing effect. Burden is on opponents of language to show that language was insufficient and unfair. *Hancock v. Secretary of State*, 885 S.W.2d 42 (Mo. App. W.D.).

(1994) Where statute requires that cost be addressed in a fiscal note summary only in cases when a proposition has cost, fiscal note summary attached to initiative proposition was not insufficient when it did not address cost, since proposition would not generate cost or savings. *Committee on Legislative Research v. Mitchell*, 886 S.W.2d 662 (Mo. App. W.D.).

116.175. Fiscal impact of proposed measure—fiscal note, fiscal note summary, requirements—return of fiscal note for revision, when.—1. Except as provided in section 116.155, upon receipt from the secretary of state's office of any petition sample sheet, joint resolution or bill, the auditor shall assess the fiscal impact of the proposed measure. The state auditor may consult with the state departments, local government entities, the general assembly and others with knowledge pertinent to the cost of the proposal. Proponents or opponents of any proposed measure may submit to the state auditor a proposed statement of fiscal impact estimating the cost of the proposal in a manner consistent with the standards of the governmental accounting standards board and section 23.140, RSMo, provided that all such proposals are received by the state auditor within ten days of his or her receipt of the proposed measure from the secretary of state.

2. Within twenty days of receipt of a petition sample sheet, joint resolution or bill from the secretary of state, the state auditor shall prepare a fiscal note and a fiscal note summary for the proposed measure and forward both to the attorney general.

3. The fiscal note and fiscal note summary shall state the measure's estimated cost or savings, if any, to state or local governmental entities. The fiscal note summary shall contain no more than fifty words, excluding articles, which shall summarize the fiscal note in language neither argumentative nor likely to create prejudice either for or against the proposed measure.

4. The attorney general shall, within ten days of receipt of the fiscal note and the fiscal note summary, approve the legal content and form of the fiscal note summary prepared by the state auditor and shall forward notice of such approval to the state auditor.

5. If the attorney general or the circuit court of Cole County determines that the fiscal note or the fiscal note summary does* not satisfy the requirements of this section, the fiscal note and the fiscal note summary shall be returned to the auditor for revision. A fiscal note or fiscal note summary that does not satisfy the requirements of this section also shall not satisfy the requirements of section 116.180.

(L. 1997 S.B. 132, A.L. 1999 H.B. 676, A.L. 2003 H.B. 511 merged with S.B. 623)

**Word "do" appears in original rolls.*

116.180. Copies of ballot title, fiscal note and fiscal note summary to designated persons, when—ballot title to be affixed to petition, when.—Within three days after receiving the official summary statement the approved fiscal note summary and the fiscal note relating to any statewide ballot measure, the secretary of state shall certify the official ballot title in separate paragraphs with the fiscal note summary immediately following the summary statement of the measure and shall deliver a copy of the official ballot title and the fiscal note to the speaker of the house or the president pro tem of the legislative chamber that originated the measure or, in the case of initiative or referendum petitions, to the person whose name and address are designated under section 116.332. Persons circulating the petition shall affix the official ballot title to each page of the petition prior to circulation and signatures shall not be counted if the official ballot title is not affixed to the page containing such signatures.

(L. 1980 S.B. 658, A.L. 1997 S.B. 132, A.L. 1999 H.B. 676)

Effective 6-16-99

116.185. Identical ballot titles may be changed, how.—Before the ballot is printed, if the title of a ballot issue is identical or substantially identical to the title of another ballot issue that will appear on the same ballot, the election authority shall promptly notify the officer or entity that certifies the election of the identical or substantially identical title, and if such officer or entity submits a new title to the election authority, the election authority may change the title of the ballot issue prior to printing the official ballot.

(L. 1999 H.B. 676 § 1)

116.190. Ballot title may be challenged, procedure—who are parties defendant—changes may be made by court—appeal to supreme court, when.—1. Any citizen who wishes to challenge the official ballot title or the fiscal note prepared for a proposed constitutional amendment submitted by the general assembly, by initiative petition, or by constitutional convention, or for a statutory initiative or referendum measure, may bring an action in the circuit court of Cole County. The action must be brought within ten days after the official ballot title is certified by the secretary of state in accordance with the provisions of this chapter.

2. The secretary of state shall be named as a party defendant in any action challenging the official ballot title prepared by the secretary of state. When the action challenges the fiscal note or the fiscal note summary prepared by the auditor, the state auditor shall also be named as a party defendant. The president pro tem of the senate, the speaker of the house and the sponsor of the measure and the secretary of state shall be the named party defendants in any action challenging the official summary statement, fiscal note or fiscal note summary prepared pursuant to section 116.155.

3. The petition shall state the reason or reasons why the summary statement portion of the official ballot title is insufficient or unfair and shall request a different summary statement portion of the official ballot title. Alternatively, the petition shall state the reasons why the fiscal note or the fiscal note summary portion of the official ballot title is insufficient or unfair and shall request a different fiscal note or fiscal note summary portion of the official ballot title.

4. The action shall be placed at the top of the civil docket. Insofar as the action challenges the summary statement portion of the official ballot title, the court shall consider the petition, hear arguments, and in its decision certify the summary statement portion of the official ballot title to the secretary of state. Insofar as the action challenges the fiscal note or the fiscal note summary portion of the official ballot title, the court shall consider the petition, hear arguments, and in its decision, either certify the fiscal note or the fiscal note summary portion of the official ballot title to the secretary of state or remand the fiscal note or the fiscal note summary to the auditor for preparation of a new fiscal note or fiscal note summary pursuant to the procedures set forth in section 116.175. Any party to the suit may appeal to the supreme court within ten days after a circuit court decision. In making the legal notice to election authorities under section 116.240, and for the purposes of section 116.180, the secretary of state shall certify the language which the court certifies to him.

(L. 1980 S.B. 658, A.L. 1985 H.B. 543, A.L. 1993 S.B. 350, A.L. 1997 S.B. 132, A.L. 1999 H.B. 676, A.L. 2003 H.B. 511 merged with S.B. 623)

116.195. Costs of court-ordered ballot title change to be paid by the state.—Whenever the reprinting of a statewide ballot measure is necessary as a result of a court-ordered change to the ballot language for such measure, the costs of such reprinting shall be paid by the state.

(L. 1999 H.B. 676 § 2)

116.200. Secretary of state's decision as to sufficiency of petition may be reversed, procedure—appeal.—1. After the secretary of state certifies a petition as sufficient or insufficient, any citizen may apply to the circuit court of Cole County to compel him to reverse his decision. The action must be brought within ten days after the certification is made. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible.

2. If the court decides the petition is sufficient, the secretary of state shall certify it as sufficient and attach a copy of the judgment. If the court decides the petition is insufficient, the court shall enjoin the secretary of state from certifying the measure and all other officers from printing the measure on the ballot.

3. Within ten days after a decision is rendered, any party may appeal it to the supreme court.

*(L. 1980 S.B. 658)
Effective 1-1-81*

116.210. Numbering of proposed constitutional amendments.—The secretary of state shall number proposed constitutional amendments in the order in which they are passed by the general assembly, or submitted by initiative petition, or adopted by constitutional convention. He shall number the first as “Constitutional Amendment No. 1” and so on consecutively. A new series of numbers shall be started after each general election.

(L. 1980 S.B. 658)

Effective 1-1-81

116.220. Labeling of initiative and referendum measures.—The secretary of state shall label statutory initiative and referendum measures alphabetically in the order in which they are submitted by petition or in the order in which they are passed by the general assembly. The secretary of state shall label the first as “Proposition A”, and so on consecutively through the letter Z, and then begin labeling as “Proposition AA” and so on. A new series of letters shall be started after each general election. In the event a measure is labeled prior to, but not voted on at, the next succeeding general election, the letter assigned to such measure shall not be reassigned until after such measure has been voted on by the people.

(L. 1980 S.B. 658, A.L. 1999 H.B. 676)

Effective 6-16-99

116.230. Sample ballots to be prepared, form.—1. The secretary of state shall prepare sample ballots in the following form.

2. The top of the ballot shall read:

“OFFICIAL BALLOT
STATE OF MISSOURI”

3. When constitutional amendments are submitted, the first heading shall read:

“CONSTITUTIONAL AMENDMENTS”

There shall follow the numbers assigned under section 116.210 the official ballot titles prepared under section 116.160 or 116.334, and the fiscal note summaries prepared under section 116.170. Constitutional amendments proposed by the general assembly shall be designated as “Proposed by the general assembly”. Constitutional amendments proposed by initiative petition shall be designated “Proposed by initiative petition”. Constitutional amendments proposed by constitutional convention shall be designated as “Proposed by constitutional convention”.

4. When statutory measures are submitted, the next heading shall read:

“STATUTORY MEASURES”

There shall follow the letters assigned under section 116.220, the official ballot titles prepared under section 116.160 or 116.334, and the fiscal note summaries prepared under section 116.170. Statutory initiative measures shall be designated “Proposed by initiative petition”. Referendum measures shall be designated “Referendum ordered by petition”.

(L. 1980 S.B. 658, A.L. 1985 H.B. 543)

116.240. Certification to election authorities of notice to be published—contents.—Not later than the tenth Tuesday prior to an election at which a statewide ballot measure is to be voted on, the secretary of state shall send each election authority a certified copy of the legal notice to be published. The legal notice shall include the date and time of the election and a sample ballot.

(L. 1980 S.B. 658, A.L. 1986 H.B. 1471, et al., A.L. 1997 S.B. 132)

116.250. Publication of legal notice.—On receiving a notice under section 116.240, each election authority shall cause the legal notice to be published in accordance with subsection 2 of section 115.127, RSMo.

(L. 1980 S.B. 658)

Effective 1-1-81

116.260. Newspapers for publication of text of measures to be designated —measures to be published, how.—The secretary of state shall designate in what newspaper or newspapers in each county the text of statewide ballot measures shall be published. If possible, each shall be published once a week for two consecutive weeks in two newspapers of different political faiths in each county, the last publication to be not more than thirty or less than fifteen days next preceding the election. If there is but one newspaper in any county, publication for four consecutive weeks shall be made, the first publication to be not less than twenty-eight days next preceding the election. If there are two or more newspapers in a county, none of which is of different political faiths from another, the statewide ballot measures shall be published once a week for two consecutive weeks in any two newspapers in the county with the last publication not more than thirty or less than fifteen days next preceding the election.

(L. 1980 S.B. 658, A.L. 1983 H.B. 670, A.L. 1997 S.B. 132)

116.270. Publications fund created—payments from fund for what, how made.—1. There is hereby created a “Publications Fund” which shall be used only to pay printing, publication, and other expenses incurred in submitting statewide ballot measures to the voters.

2. The secretary of state shall certify to the commissioner of administration all valid claims for payment from the publications fund. On receiving the certified claims, the commissioner of administration shall issue warrants on the state treasurer payable to each individual out of the publications fund.

(L. 1980 S.B. 658)

Effective 1-1-81

116.280. Paper ballots for statewide measures, form.—In jurisdictions using paper ballots, election authorities shall cause the ballots for statewide ballot measures to be printed on paper not less than four inches wide and ten inches long, and all in the same color and size. Measures may be printed in more than one column.

(L. 1980 S.B. 658)

Effective 1-1-81

116.290. Printing of copies of statewide measures—to be posted at polling places—distribution, exception.—1. The secretary of state shall distribute copies of each statewide ballot measure, except proposed constitutions as published in newspapers for legal notice of the election.

2. The secretary of state shall print copies of each proposed constitution in pamphlet form.

3. From copies delivered by the secretary of state, each election authority shall post at least two copies of each notice and pamphlet at each polling place during the time the polls are open.

4. The secretary of state shall print any new language being proposed for adoption or rejection in boldface type.

(L. 1980 S.B. 658, A.L. 1983 S.B. 234)

116.300. Challengers and watchers at polling places, how designated.—Not later than the fourth Tuesday prior to an election on a statewide ballot measure, each chairman of a county campaign committee favoring a measure and each chairman of a county campaign committee opposing a measure shall file with the election authority a list of committee officers and a request to have the right to designate challengers and watchers under section 116.310. If only one committee favoring a particular measure and one committee opposing a particular measure file a list and a request, then each filing chairman shall have the right to designate challengers and watchers under section 116.310. If more than one committee favoring a particular measure or more than one committee opposing a particular measure files a list and request, then the election authority shall determine which chairman has the right to designate challengers and watchers. If

the measure was submitted by initiative or referendum petition, the person designated under section 116.100 as the person to receive notice under sections 116.140 and 116.180 shall be entitled to designate the county campaign committee chairmen's names to the proper election authorities by the fourth Tuesday prior to the election on that measure.

(L. 1980 S.B. 658)

Effective 1-1-81

116.310. Time limited for designating challengers and watchers for polling places and counting locations—effect of failure to designate by prescribed time.—1. Not later than the Tuesday prior to an election on a statewide ballot measure, each county campaign committee chairman who had the right to designate challengers under section 116.300 shall designate such challengers, who may be present at each polling place during the hours of voting. Each such chairman shall also by the same time designate a challenger for each location at which absentee ballots are counted. The challengers so designated may be present while the ballots are being prepared for counting and being counted.

2. Not later than the Tuesday prior to an election on a statewide ballot measure, each campaign committee chairman who has the right to designate watchers under section 116.300 shall designate a watcher for each place votes are counted.

3. After challengers and watchers have been designated, the provisions contained in sections 115.105, 115.107, 115.109, and 115.111, RSMo, shall apply to them.

4. Failure to designate challengers and watchers by the prescribed times shall cause the county campaign committee to forfeit its right to name such persons for those omitted locations for that election.

(L. 1980 S.B. 658)

Effective 1-1-81

116.320. Adoption of measure, vote required—effect of approval of conflicting measures.—1. Each statewide ballot measure receiving a majority of affirmative votes is adopted.

2. If voters approve two or more conflicting statutes at the same election, the statute receiving the largest affirmative vote shall prevail, even if that statute did not receive the greatest majority of affirmative votes.

3. If voters approve two or more conflicting constitutional amendments at the same election, the amendment receiving the largest affirmative vote shall prevail, even if that amendment did not receive the greatest majority of affirmative votes.

(L. 1980 S.B. 658)

Effective 1-1-81

116.330. Board of canvassers or governor to issue statement.—1. After an election at which any statewide ballot measure, other than a proposed constitution or constitutional amendment submitted by a constitutional convention, is voted upon, the secretary of state shall convene the board of state canvassers to total the abstracts. Not later than two weeks after receiving all required abstracts, the board shall issue a statement giving the number of votes cast "yes" and "no" on each question. If voters approve two or more measures at one election which are known to conflict with one another, or to contain conflicting provisions, the board shall also state which received the largest affirmative vote.

2. After an election at which a proposed constitution or constitutional amendment adopted by a constitutional convention is submitted, the governor shall proclaim the results in accordance with section 3(c), article XII of the constitution.

(L. 1980 S.B. 658)

Effective 1-1-81

116.332. Petitions for constitutional amendments, statutory initiative or referendum, requirements, procedure.—1. Before a constitutional amendment petition, a statutory initiative

petition, or a referendum petition may be circulated for signatures, a sample sheet must be submitted to the secretary of state in the form in which it will be circulated. When a person submits a sample sheet of a petition he or she shall designate to the secretary of state the name and address of the person to whom any notices shall be sent pursuant to sections 116.140 and 116.180. The secretary of state shall refer a copy of the petition sheet to the attorney general for his approval and to the state auditor for purposes of preparing a fiscal note and fiscal note summary. The secretary of state and attorney general must each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any.

2. Upon receipt of a petition from the office of the secretary of state, the attorney general shall examine the petition as to form. If the petition is rejected as to form, the attorney general shall forward his or her comments to the secretary of state within ten days after receipt of the petition by the attorney general. If the petition is approved as to form, the attorney general shall forward his or her approval as to form to the secretary of state within ten days after receipt of the petition by the attorney general.

3. The secretary of state shall review the comments and statements of the attorney general as to form and make a final decision as to the approval or rejection of the form of the petition. The secretary of state shall send written notice to the person who submitted the petition sheet of the approval within thirty days after submission of the petition sheet. The secretary of state shall send written notice if the petition has been rejected, together with reasons for rejection, within thirty days after submission of the petition sheet.

(L. 1985 H.B. 543 § 1, A.L. 1997 S.B. 132)

(1991) That part of this section which limits submission to secretary of state of sample petitions to one year prior to the final date for filing signed petitions shortens time authorized by constitution, art. XII, Sec. 2(b), during which constitutional amendment petitions may be circulated for signatures and is invalid. *State of Mo., ex rel. Upchurch v. Blunt*, 810 S.W.2d 515 (Mo. banc).

116.334. Petition approval required, procedure to obtain petition title or summary statement—rejection or approval of petition, procedure—circulation of petition prior to approval, effect.—1. If the petition form is approved, the secretary of state shall within ten days prepare and transmit to the attorney general a summary statement of the measure which shall be a concise statement not exceeding one hundred words. This statement shall be in the form of a question using language neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure. The attorney general shall within ten days approve the legal content and form of the proposed statement.

2. Signatures obtained prior to the date the official ballot title is certified by the secretary of state shall not be counted.

(L. 1985 H.B. 543 § 2, A.L. 1997 S.B. 132)

116.340. Publication of approved measures.—When a statewide ballot measure is approved by the voters, the secretary of state shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.

(L. 1980 S.B. 658)

Effective 1-1-81